

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

JENNIFER R. COKER,

Plaintiff,

v.

C. R. BARD, INC., and BARD  
PERIPHERAL VASCULAR, INC.,

Defendants.

Civil Action No.  
1:13-CV-00515-TWT

**Plaintiff's Motion in Limine and  
Memorandum in Support to  
Exclude Reference to Failure  
Rates, Complication Rates,  
Percentages and Comparative  
Analysis Beyond Those Produced  
in Complaint Files**

**Oral Argument Requested**

**MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION *IN LIMINE*  
TO EXCLUDE REFERENCE TO FAILURE RATES, COMPLICATION  
RATES, PERCENTAGES AND COMPARATIVE ANALYSIS OF  
INJURIES BEYOND THOSE PRODUCED IN COMPLAINT FILES**

Plaintiff moves in limine for an Order precluding evidence or argument relating to failure rates, complication rates, percentages, or comparative analysis of any injuries that were not produced to Plaintiff during discovery.

**MEMORANDUM OF LAW**

To date, Bard has only produced to Plaintiff adverse event reports (“AERs”) and Medical Device Reports (“MDRs”) relating to the following injuries that are associated with its retrievable filters: death, perforation, tilt, fracture, and migration, *i.e.*, injuries relevant to the litigation. In turn, Plaintiff has only been afforded the opportunity to review, evaluate, analyze, and derive relevant raw data from the AERs and MDRs related to the above listed injuries. Therefore, Defendants reference to any injuries, failure rates, complication rates, percentages, or comparative analyses of injuries that are outside the scope of Defendants production to Plaintiff will unfairly prejudice her case and ultimately confuse the jury. As such, Plaintiff respectfully requests that any testimony of injuries or failure rates of injuries not produced in AERs and MDRs to Plaintiff must be excluded from trial under Federal Rules of Evidence 402 and 403.

RESPECTFULLY SUBMITTED this 3rd day of May, 2022.

/s/ Kimberly W. Grant  
Wayne Grant, Esq.  
GA Bar No. 305550  
Kimberly W. Grant  
GA Bar No. 591510  
GRANT LAW OFFICE  
Monarch Tower, Suite 2200  
3424 Peachtree Road, NE  
Atlanta, GA 30326  
Telephone: (404) 995-3955

Facsimile: (404) 465-3636  
wgrant@waynegrant.com  
kgrant@waynegrant.com

/s/ Willard T. Bullock  
Willard T. Bullock, Esq.  
GA Bar No. 094598  
BULLOCK LAW FIRM, P.C.  
Monarch Tower, Suite 2200  
3424 Peachtree Road, NE  
Atlanta, GA 30326  
Telephone: (404) 913-8383  
Facsimile: (404) 465-3636  
wbullock@bullocklawfirmnpc.com

/s Ramon R. Lopez  
Ramon R. Lopez, Esq.  
CA Bar No. 86361  
rlopez@lopezmchugh.com  
Joshua M. Mankoff, Esq.  
PA Bar No. 210242  
jmankoff@lopezmchugh.com  
LOPEZ MCHUGH LLP  
120 Vantis Drive, Suite 430  
Aliso Viejo, CA 92656  
Telephone: (949) 737-1501  
Facsimile: (949) 737-1504

*Counsel for Plaintiff*

### **Certificate of Compliance**

In accordance with Local Rule 7.1D, this is to certify that this brief has been prepared with one of the fonts and points approved by the Court in LR 5.1B, i.e., 14 point, Times New Roman font, and that the brief does not contain more than 10 characters per inch of type.

This 3<sup>rd</sup> day of May, 2022.

/s/ Kimberly W. Grant

Kimberly W. Grant

Georgia Bar No. 591510

kgrant@waynegrant.com

**CERTIFICATE OF SERVICE**

I hereby certify that on May 3, 2022, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or *pro se* parties identified on the Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ Kimberly W. Grant  
Kimberly W. Grant, Esq.  
GA Bar No. 591510

*Counsel for Plaintiff*